

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MALIBU MEDIA, LLC,

Plaintiff,

v.

JOHN DOE,

Defendant.

Case No. 2:13-cv-11432-GAD-RSW

Assigned to: Hon. Gershwin A. Drain
United States District Judge

Referred to: Hon. R. Steven Whalen
United States Magistrate Judge

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**JOHN DOE'S STATEMENT OF NON-OPPOSITION
TO PLAINTIFF'S MOTION FOR ENTRY OF AN ORDER AUTHORIZING
COMCAST AND AT&T TO COMPLY WITH A THIRD PARTY SUBPOENA**

NON-OPPOSITION

On June 23, 2014, Plaintiff Malibu Media, LLC (“**Malibu**”) filed a motion styled as “Plaintiff’s Motion For Entry Of An Order Authorizing Comcast And AT&T To Comply With A Third Party Subpoena” (ECF NO. 53). This motion was referred to Magistrate Judge R. Steven Whalen (ECF No. 54) and is set for hearing on July 10, 2014 at 10:00 a.m. (ECF No. 55).

When Malibu filed the instant motion, discovery was closed (*see* Amended Scheduling Order, ECF No. 46, 5/2/14, setting close of discovery as June 16, 2014), but Malibu’s second motion to reopen discovery was pending (ECF No. 50, 6/16/14).

In view of Judge Drain’s recent order in this case (ECF No. 60, 7/2/14) reopening discovery until July 21, 2014, and resetting the dispositive motion cutoff date accordingly, Doe does not oppose the issuance of subpoenas of the sort described in the instant motion. Accordingly, Doe files this statement of non-opposition to advise the Court of this position.

Since no proposed subpoena is actually attached to Malibu’s instant motion, Doe would reserve the right to object to the form of the subpoena after one is actually served, and, of course, to make any appropriate objections or motions *in limine* as to the admissibility or application of privilege to any of the information

produced. *See* Fed. R. Civ. P. 45(e)(2)(B). However, as applicable in this case, Doe does not find the topics described in paragraph 4 of the instant motion (ECF No. 53, p. 1) to be beyond the bounds of permissible discovery. As long as Malibu sticks closely to the list described in its motion and follows Rule 45, Doe does not anticipate objecting to the subpoena prior to its issuance to the ISPs.

For the record, Doe does note an objection to the relevance of the subpoena to AT&T, but rather than litigate the issue here at the discovery stage without seeing what information is returned, Doe hereby stipulates to allowing production by AT&T over this objection.

Respectfully submitted,

DATED: July 7, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing paper with the Clerk of the Court using ECF, which will send notification of such filing to all attorneys of record.

/s/ Morgan E. Pietz

Morgan E. Pietz

DATED: July 7, 2014